

SUMMONS ISSUED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

DJGPC FILE
NO.: 22068

2012 SEP 27 AM 8:43

ALFORD A. SMITH, M.D.,

U.S. DISTRICT COURT Case No.
EASTERN DISTRICT
OF NEW YORK

Plaintiff,

-against-

A.I.T. CREDIT SERVICES, INC.
A/K/A A.I.T. CREDIT SERVICES
INC.,

Defendant.

VERIFIED
COMPLAINT

PRELIMINARY STATEMENT

FIRST: Plaintiff, ALFORD A. SMITH, M.D., brings this action on his own behalf for damages and declaratory and injunctive relief arising from the defendant's violation of § 1692, et. seq. of Title 15 of the United States Code, The Fair Debt Collection Practices Act ("FDCPA"), which prohibits debt collectors from engaging in any false, deceptive, or misleading representation or means in connection with the collection of any debt.

PARTIES

SECOND: Plaintiff is a citizen of the United States of America who resides within the State of New York.

THIRD: Upon information and belief, defendant was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York. Defendant's principal place of business is located, upon information and belief, at 143 Doughty Boulevard, Inwood, State of New York, County of Nassau.

JURISDICTION and VENUE

FOURTH: This Court has Federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692, et. seq.

FIFTH: Venue is proper in this district pursuant under 28 U.S.C. § 1391(a)(1).

STATEMENT OF FACTS

SIXTH: That, upon information and belief, heretofore and on or about October 23, 2008, ALL DATA

SERVICE, as creditor, instituted a lawsuit against plaintiff via its attorney, RICHARD SOKOLOFF, ESQ., in the Civil Court of the City of New York, County of Queens, under Index Number 141984/08. Immediately thereafter, issue was joined by plaintiff, by service of a Verified Answer and Counterclaim via his attorney, DAVID J. GOLD, P.C., on or about the 04th day of December, 2008. Annexed hereto and made a part hereof and marked as plaintiff's Exhibits "1" and "2," respectively, are a copy of ALL DATA SERVICE's Summons and Verified Complaint and plaintiff's Verified Answer and Counterclaim.

SEVENTH: That, upon information and belief, the Civil Court action is currently pending.

EIGHTH: That, upon information and belief, heretofore and on or about the 17th day of March, 2011, defendant sent an initial collection letter to plaintiff stating a debt is owed to ALL DATA SERVICE. Annexed hereto and made a part hereof and marked as plaintiff's Exhibit "3" is a copy of said letter, dated March 17, 2011.

NINTH: Defendant's letter dated March 17, 2011, violates 15 U.S.C. § 1692c(a)(2), 1692e(2)(A), 1692e(4), 1692e(5), 1692e(8), 1692e(11), 1692g(a)(3) and 1692g(a)(4).

TENTH: That as a result of defendant's false, deceptive, or misleading representation and unfair debt collection practices, plaintiff has been damaged.

AS AND FOR A FIRST CAUSE OF ACTION
(COMMUNICATION IN CONNECTION WITH DEBT COLLECTION):

ELEVENTH: That plaintiff repeats, reiterates and realleges each and every allegation as set forth in paragraphs marked "FIRST" through "TENTH" of the complaint as if same were more fully set forth herein at length.

TWELFTH: That, upon information and belief, defendant had or should have had knowledge that the plaintiff is represented by an attorney and had or should have had knowledge of the pending Civil Court, County of Queens, lawsuit.

THIRTEENTH: Defendant's letter, dated March 17, 2011, violates 15 U.S.C. 1692c(a)(2) as defendant knew or should have known or could have verified that plaintiff is represented by counsel.

FOURTEENTH: That as a result of defendant's false, deceptive, or misleading representation and unfair debt collection practices, plaintiff has been damaged.

AS AND FOR A SECOND CAUSE OF ACTION
(FALSE AND MISLEADING REPRESENTATIONS):

FIFTEENTH: That plaintiff repeats, reiterates and realleges each and every allegation as set forth in paragraphs marked "FIRST" through "FOURTEENTH" of the complaint as if same were more fully set forth herein at length.

SIXTEENTH: Defendant's letter, dated March 17, 2011, violates 15 U.S.C. 1692e(2)(A), 1692e(4) and 1692e(5), insofar as defendant has mislead and threatened plaintiff with false representations of the amount due and the legal status of the alleged debt as litigation had already been commenced.

SEVENTEENTH: Defendant's letter, dated March 17, 2011, violates 15 U.S.C. 1692e(8), insofar as defendant has threatened to communicate the alleged debt to a National Credit Bureau when the alleged debt is disputed.

EIGHTEENTH: Defendant failed to disclose in its initial written communication with plaintiff, "that the

debt collector is attempting to collect a debt and that any information obtained will be used for that purpose."

NINETEENTH: Defendant's failure to disclose that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, violates 15 U.S.C. § 1692e(11).

AS AND FOR A THIRD CAUSE OF ACTION
(VALIDATION OF DEBTS):

TWENTIETH: That plaintiff repeats, reiterates and realleges each and every allegation as set forth in paragraphs marked "FIRST" through "NINETEENTH" of the complaint as if same were more fully set forth herein at length.

TWENTY-FIRST: Defendant's collection letter, dated March 17, 2011, states in part:

In order to HALT escalation and increasing expense: Make payment of \$ 18580.57 NOW...

TWENTY-SECOND: Defendant's insistence that plaintiff make payment "now" to defendant has contradicted and overshadowed mandated validation notice requirements under 15 U.S.C. § 1692g(a)(3) and 1692g(a)(4) which allows

a consumer to notify the debt collector in writing within the thirty-day period that the debt or any portion thereof is disputed.

TWENTY-THIRD: Therefore, defendant's letter takes away plaintiff's right to dispute the debt for the thirty-day period following receipt of the collection letter.

TWENTY-FOURTH: Defendant's debt collection letter violated and overshadowed various provisions of FDCPA, including but not limited to 15 U.S.C. § 1692g(a)(3) and 1692g(a)(4).

AS AND FOR A FOURTH CAUSE OF ACTION
(PUNITIVE DAMAGES AND ATTORNEY'S FEES):

TWENTY-FIFTH: That plaintiff repeats, reiterates and realleges each and every allegation as set forth in paragraphs marked "FIRST" through "TWENTY-FOURTH" of the complaint as if same were more fully set forth herein at length.

TWENTY-SIXTH: Defendant's debt collection letter violated and overshadowed various provisions of FDCPA, including but not limited to 15 U.S.C. § 1692c(a)(2), 1692e(2)(A), 1692e(4), 1692e(5), 1692e(8), 1692e(11), 1692g(a)(3) and 1692g(a)(4).


TWENTY-SEVENTH: That as a result of defendant's false, deceptive, or misleading representations and unfair debt collection practices, plaintiff is entitled to punitive damages against defendant, plus reasonable attorney's fees as permissible by law, together with the costs and disbursements of this action.

WHEREFORE, plaintiff respectfully requests that this Court enter judgment his favor against defendant on the first, second, third and fourth causes of action as follows:

1. Awarding plaintiff statutory damages;
2. Awarding plaintiff punitive damages;
3. Awarding plaintiff reasonable attorney's fees as permissible by law, together with the costs and disbursements of this action; and
4. Granting plaintiff such other, further and different relief as this Court may deem just and proper in

the premises.

Dated: New York, New York
Thursday, September 22, 2011.



DAVID J. GOLD, P.C.
Attorney for Plaintiff
Office & P.O. Address
800 Second Avenue, Suite 810
New York, New York 10017-9223
Tel.: (212) 962-2910
Fax: (212) 962-2919
EMail: djgpcsq1@aol.com

141984

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

INDEX #

SUMMONS

ALL DATA SERVICE

PLAINTIFF,

PLAINTIFF'S ADDRESS:
200 BROADWAY
BROOKLYN, NY 11311

-AGAINST-

ALFORD A. SMITH MD

DEFENDANT(S).

DEFENDANTS ADDRESS:

116 AUDLEY ST
KEW GARDENS, NY 11425

RECEIVED AND FILED

OCT 23 2008

CIVIL COURT
QUEENS COUNTY

THE BASIS OF VENUE IS:

A DEFENDANT RESIDES IN THE COUNTY OF QUEENS

TO THE ABOVE NAMED DEFENDANT(S): ALFORD A. SMITH MD

YOU ARE HEREBY SUMMONED AND REQUIRED TO APPEAR IN THE CIVIL COURT OF THE CITY OF NEW YORK, COUNTY OF QUEENS AT THE OFFICE OF THE CLERK OF SAID COURT AT 89-17 SUTPHIN BLVD JAMAICA, NY 11435 IN THE COUNTY OF QUEENS, CITY AND STATE OF NEW YORK, WITHIN THE TIME PROVIDED BY LAW AS NOTED BELOW AND TO FILE YOUR ANSWER TO THE ANNEXED COMPLAINT WITH THE CLERK; UPON YOUR FAILURE TO ANSWER, JUDGMENT WILL BE TAKEN AGAINST YOU FOR THE SUM OF \$14,064.67 WITH INTEREST THEREON FROM 00/00/00 TOGETHER WITH THE COSTS OF THIS ACTION.

DATED: June 03, 2008

FILE NUMBER: 791228 /357

Richard Sokoloff

Attorney at Law

3245 ROUTE 112-SUITE 1

MEDFORD, NY 11763

PH: (631) 696-8545 FAX: (631) 696-8794

NOTE: THE LAW PROVIDES THAT:

(A) IF THIS SUMMONS IS SERVED BY ITS DELIVERY TO YOU, OR (FOR A CORPORATION) AN AGENT AUTHORIZED TO RECEIVE SERVICE, PERSONALLY WITHIN THE CITY OF NEW YORK YOU MUST ANSWER WITHIN 20 DAYS AFTER SUCH SERVICE: OR

(B) IF THIS SUMMONS IS SERVED OTHERWISE THAT AS DESIGNATED IN SUBDIVISION (A) ABOVE YOU ARE ALLOWED 30 DAYS TO ANSWER AFTER THE PROOF OF SERVICE IS FILED WITH THE CLERK OF THIS COURT.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

VERIFIED COMPLAINT

ALL DATA SERVICE

PLAINTIFF(S),

-AGAINST-

ALFORD A. SMITH MD

DEFENDANT(S)

PLAINTIFF(S), BY ITS ATTORNEY, COMPLAINING OF THE DEFENDANT(S), UPON INFORMATION AND BELIEF, ALLEGES:

- 1) THAT DURING THE TIME HEREIN STATED AND HEREINAFTER MENTIONED, THE PLAINTIFF WAS AND STILL IS A COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK.
- 2) UPON INFORMATION AND BELIEF THAT DURING THE TIME HERETOFORE AND AT ALL TIMES HEREINAFTER MENTIONED, THE DEFENDANT HEREIN WAS AND STILL IS AN INDIVIDUAL RESIDING IN THE COUNTY OF QUEENS, NEW YORK.
- 3) THAT THE CAUSE OF ACTION AROSE IN THE COUNTY OF KINGS WHEN PROFESSIONAL SERVICES WERE RENDERED.
- 4) THAT HERETOFORE PLAINTIFF SOLD GOODS AND/OR PERFORMED PROFESSIONAL SERVICES AT AN AGREED PRICE AND REASONABLE VALUE TO THE DEFENDANT IN THE AMOUNT OF \$16,064.67.
- 5) THAT NO PART THEREOF HAS BEEN PAID ALTHOUGH DULY DEMANDED EXCEPT THE SUM OF \$2,000.00 THERE NOW REMAINS DUE AND OWING TO PLAINTIFF(S) FROM DEFENDANT(S) \$14,064.67 WITH INTEREST THEREON FROM 5/28/08

WHEREFORE, PLAINTIFF(S) DEMAND JUDGMENT AGAINST DEFENDANT(S) FOR THE SUM OF \$14,064.67 WITH INTEREST FROM 5/28/08 TOGETHER WITH COSTS AND DISBURSEMENTS.

Richard Sokoloff
Attorney at Law
3245 ROUTE 112-SUITE 1
MEDFORD, NY 11763
PH: (631) 696-8545 - FAX: (631) 696-8794

VERIFICATION, BY INDIVIDUAL

STATE OF NEW YORK, COUNTY OF SUFFOLK ss: THE UNDERSIGNED, BENJAMIN SILBERSTEIN BEING DULY SWORN, DEPOSES AND SAYS: DEPONENT IS PLAINTIFF(S) IN THE WITHIN ACTION. DEPONENT HAS READ THE FOREGOING COMPLAINT AND KNOWS THE CONTENTS THEREOF: THE SAME IS TRUE TO DEPONENTS OWN KNOWLEDGE EXCEPT TO MATTERS THEREIN STATED TO BE ALLEGED ON INFORMATION AND BELIEF, AND AS TO THOSE MATTERS DEPONENT BELIEVES IT TO BE TRUE. THE GROUNDS OF DEPONENT'S BELIEF AS TO ALL MATTERS NOT STATED UPON DEPONENT'S KNOWLEDGE ARE AS FOLLOWS: BOOKS AND RECORDS.

DATED: June 03, 2008

SWORN TO ME ON

SOLOMON ITZKOWITZ
Notary Public, State of New York
No. 01174795441
Qualified in Kings County
Commission Expires July 31, 2010

BENJAMIN SILBERSTEIN

TITLE: President

2

CIVIL COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

DJGPC FILE
NO.: 22063

-----X

ALL DATA SERVICE,

Index No.
141984/08

Plaintiff,

-against-

DEC 04 2008

ALFORD A. SMITH MD,

Defendant.

VERIFIED
ANSWER AND
COUNTERCLAIM

-----X

Defendant, ALFORD A. SMITH, M.D., by DAVID J. GOLD,
P.C., his attorney, as and for his Answer and Counterclaim
to plaintiff's Verified Complaint herein, alleges as
follows:

2008-12-04 19:08

ANSWERING THE VERIFIED COMPLAINT:

FIRST: Denies knowledge or information
sufficient to form a belief as to the allegations set forth
in paragraph marked "1" of plaintiff's Verified Complaint.

SECOND: Denies each and every allegation as set
forth in paragraphs marked "3," "4" and "5" of plaintiff's
Verified Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

THIRD: Plaintiff's Verified Complaint fails to sufficiently state a cause of action against defendant upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

FOURTH: Upon information and belief, there was never an agreement between defendant and plaintiff.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

FIFTH: Upon information and belief, plaintiff never delivered and defendant never received any goods from plaintiff.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

SIXTH: Upon information and belief, defendant has paid all sums due to plaintiff.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

SEVENTH: Lack of subject matter jurisdiction.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

EIGHTH: Lack of in personam jurisdiction.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

NINTH: Improper defendant. Plaintiff has sued an improper party as defendant has no personal liability to plaintiff.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

TENTH: Plaintiff is not, upon information and belief, authorized to conduct business in the State of New York and the City of New York, and therefore, plaintiff's is barred from maintaining the current litigation against defendant.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

ELEVENTH: Statute of limitations.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE
AND BY WAY OF A FIRST COUNTERCLAIM AGAINST
PLAINTIFF:

TWELFTH: That plaintiff has instituted this lawsuit against defendant in bad faith and with malice.

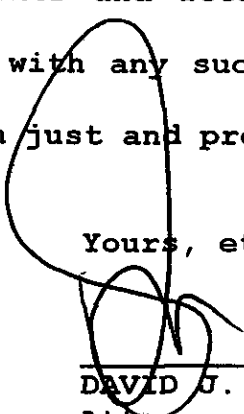
THIRTEENTH: That plaintiff has instituted this lawsuit as a means of harassment against defendant as plaintiff has no basis in law or fact to proceed against defendant in this litigation.

FOURTEENTH: That by reason of the foregoing, defendant is entitled to recovery of all attorney's fees incurred by him and punitive damages against plaintiff in a sum to be determined by the trier of fact, but not less than \$ 25,000.00, plus interest thereon.

WHEREFORE, defendant demands judgment dismissing plaintiff's Summons and Verified Complaint, together with the costs, disbursements and attorney's fees in defending this action, and on his first counterclaim against plaintiff in a sum to be determined by the trier of fact,

but not less than the sum of TWENTY-FIVE-THOUSAND AND
00/100 DOLLARS (\$ 25,000.00), plus interest thereon;
together with the costs, disbursements and attorney's fees
in defending this action, together with any such other and
further relief as the Court may deem just and proper.

Yours, etc.,



DAVID J. GOLD, P.C.
Attorney for Defendant
Office & P.O. Address
116 John Street, Suite 2203
New York, New York 10038-3300
Tel.: (212) 962-2910
Fax: (212) 962-2919
EMail: djgpcsql@aol.com

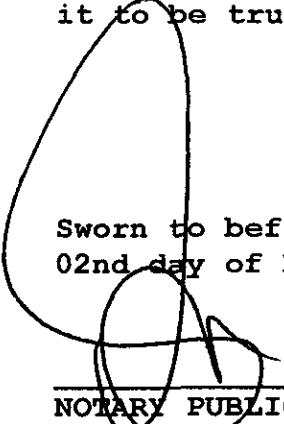
TO: RICHARD SOKOLOFF, ESQ.
Attorney for Plaintiff
Office & P.O. Address
3245 Route 112, Suite 1
Medford, New York 11763
Tel.: (631) 696-8545
Fax: (631) 696-8794

INDIVIDUAL VERIFICATION

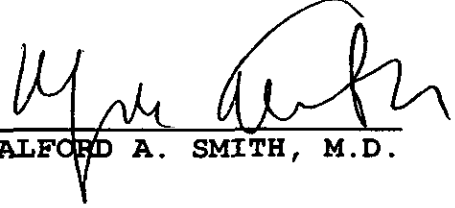
STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

I, ALFORD A. SMITH, M.D., being duly sworn, depose and say: I am the named defendant in the within action; I have read the foregoing ANSWER AND COUNTERCLAIM and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

Sworn to before me this
02nd day of December, 2008.



NOTARY PUBLIC
DAVID J. GOLD
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31-4872791
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES 09/15/2010



ALFORD A. SMITH, M.D.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

COUNTY OF NEW YORK) ss.:

LOUISE SAUER, being duly sworn, deposes and says:

I reside in New York, New York.

I am over the age of 18 years and am not a party to the within action.

On Tuesday, December 02, 2008, I served the annexed:

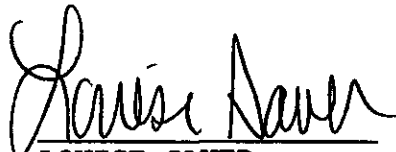
VERIFIED ANSWER AND COUNTERCLAIM

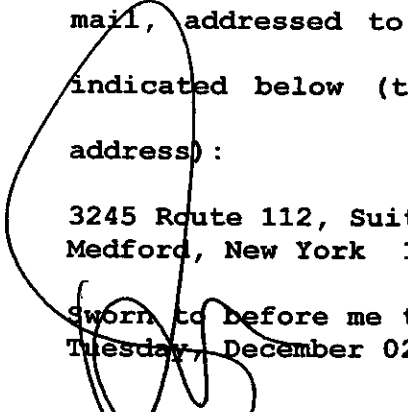
upon RICHARD SOKOLOFF, ESQ., the person named therein as the attorney for the named plaintiff, in the following manner:

By mailing the same in a sealed envelope with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, by ordinary mail, addressed to the last known address of the addressee as indicated below (the address designated by said party as his address):

3245 Route 112, Suite 1
Medford, New York 11763

Sworn to before me this
Tuesday, December 02, 2008.


LOUISE SAUER



NOTARY PUBLIC
DAVID J. GOLD
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31-4872791
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES 9/15/2010

DAVID J. GOLD, P.C.

I.A.S. JUSTICE:
R.J.I. NO.:

INDEX NO.: 141984/08
CALENDAR NO.:
DJGPC FILE NO.: 22063

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS
=====

ALL DATA SERVICE,

PLAINTIFF,

-AGAINST-

ALFORD A. SMITH MD,

DEFENDANT.
=====

VERIFIED ANSWER AND COUNTERCLAIM
=====

Pursuant TO 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

DAVID J. GOLD, P.C.
ATTORNEY FOR DEFENDANT
OFFICE & P.O. ADDRESS, TELEPHONE
116 JOHN STREET, SUITE 2203
NEW YORK, NEW YORK 10038-3300
TEL.: (212) 962-2910
FAX: (212) 962-2919
E-MAIL: DJGPCESQ1@AOL.COM

143 DOUGHTY BLVD. P.O. BOX 960612 INWOOD, NY 11096 TEL#: 516 371-6388

COLLECTION DIVISION

Date: 3/17/2011
Creditor: ALL DATA SERVICE
Interest: \$ 7872.00 Rate: 13.50%
Fees: \$ N/A
Total Due: \$ 18580.57

ALFORD A. SMITH MD
8618 KINGSTON PLACE
APT 1
JAMAICA, NY 11432

Account No: 144566-108246
CASE No: Pending
DOCKET NO: N/A

MAR 30 2011

To: ALFORD A. SMITH MD

*** NOTIFICATION ***

Please be aware we have been retained to pursue this debt until it is satisfied.

We have attempted to contact you numerous times. We seriously regret your failure to pay. We find it extremely disappointing. Our records indicate you have not yet made full payment on this delinquent account. You also have not seriously attempted to rectify this situation.

You have failed to keep your commitment and therefore we are left with no alternative. We may now take action to satisfy this debt using various means available to us.

1. Entering this debt into your **CREDIT DATA FILE** with a **NATIONAL CREDIT BUREAU**. A significant number of lending institutions employ credit bureaus as a means of determining CREDIT WORTHINESS. This includes but is not limited to FINANCIAL INSTITUTIONS (BUSINESS LOANS - LINES OF CREDIT, MORTGAGE, AUTO, CREDIT CARDS). Many companies, and individuals may access this information. This may impact your ability to function as you desire in the marketplace for YEARS TO COME.

2. **LEGAL RESOURCES** may be utilized to satisfy a debt. Interest may be added to the full principal due. We will request within legal limits all COURT, SUMMONS and OTHER EXPENSES incurred to collect this debt. This is in addition to your own costs such as time off and expense of retaining your own counsel. **ASSET LIENS ie. BANK ACCOUNT LIENS or a GARNISHMENT OF INCOME** shall be attempted if it becomes necessary to pursue payment after a favorable judgment. Company officers will be deemed responsible for debt where it is legal.

In order to **HALT escalation and increasing expense**: Make payment of \$ 18580.57 NOW in the form of a certified check made out to A.I.T. CREDIT SERVICES INC. DO NOT HESITATE, THIS MUST BE RESOLVED NOW.

Sincerely,

Robert Burton
Collection Manager

enc. env.
c. Credit Div. 3/18/2011

PAYMENT MAY ALSO BE MADE ON OUR SECURE WEB SITE AT www.payment.aitcredit.com

INDIVIDUAL VERIFICATION

STATE OF New York)
COUNTY OF Queens) ss.:

I, ALFORD A. SMITH, M.D., being duly sworn, depose and say: I am the plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

xy [Signature]
ALFORD A. SMITH, M.D.

Sworn to before me this
22 day of September, 2011.

X [Signature]
NOTARY PUBLIC
EDWARD SFERRAZZA
Notary Public - State of New York
NO. 018F6200665
Qualified in Queens County
My Commission Expires 2/9/15